

**Regulations to Implement S.B. 617
Re Major Regulations
(Draft 3/20/2013)**

Adopt regulations in Title 1, Division 3, to read as follows:

2000. Definitions.

For purposes of this chapter:

- (a) "Agency" has the meaning given to that term in Section 11342.520 of the code.
- (b) "Code" means the Government Code.
- (c) "Department" means the Department of Finance.
- (d) "Major regulation" means any proposed rulemaking action adopting, amending or repealing regulations subject to review by OAL that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000) annually, computed without regard to any benefits or savings that might result directly or indirectly from that adoption, amendment or repeal.
- (e) "Notice of proposed changes" means the notice required by Section 11346.5 of the code.
- (f) "OAL" means the Office of Administrative Law.
- (g) "SRIA" means the standardized regulatory impact assessment required by Section 11346.3(c) of the code.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548 and 11346.36, Government Code.

2001. Notification and Consultation.

- (a) (1) An agency that is proposing to adopt, amend or repeal a major regulation shall provide the department, not later than November 1 of each calendar year, with a list and summary of each major regulation that it anticipates proposing during the

following calendar year. The summary shall describe the problem intended to be addressed by each proposed major regulation and the anticipated dates on which the agency proposes to initiate the formal rulemaking process.

(2) In the event an agency determines after November 1 that it anticipates promulgating a major regulation, the agency shall submit to the department the information required in subdivision (a) as soon as possible but in no event later than 60 days prior to filing a notice of proposed changes with OAL or, if the agency files an emergency regulation with OAL, contemporaneous with the filing of the notice of proposed changes to initiate the formal rulemaking process for that emergency regulation.

(3) Upon request by the department, an agency shall submit to the department the data and calculations it used in determining whether a proposed adoption, amendment or repeal of a regulation would meet the threshold for a major regulation as defined in section 2000(d).

(b) An agency that anticipates promulgating a major regulation shall, pursuant to Section 11346.3(f) of the code, submit its completed SRIA to the department not less than 60 days prior to filing a notice of proposed changes with OAL so that the agency can develop and evaluate reasonable alternatives early in the process. The agency shall request public input regarding alternatives from those who would be subject to or affected by the regulations (including other state agencies and local agencies, where appropriate) prior to filing a notice of proposed changes with OAL unless the agency is required to implement federal law and regulations which the agency has little or no discretion to vary.

NOTE: Authority cited: Sections 11346.3(f) and 11346.36, Government Code.
Reference: Sections 11342.548, 11346.3(f) and 11346.36, Government Code.

2002. Standardized Regulatory Impact Assessment.

Section 11346.3(c) of the code requires a standardized regulatory impact analysis (“SRIA”) to address all of the following: (1) the creation or elimination of jobs within the state; (2) the creation of new businesses or the elimination of existing businesses within the state; (3) the competitive advantages or disadvantages for businesses currently doing business within the state; (4) the increase or decrease of investment in the state; (5) the incentives for innovation in products, materials, or processes; and (6) the benefits of the regulations, including but not limited to those described in subdivision (h). The SRIA shall contain all of the information required by Section 11346.3(c) of the code, which shall have been prepared in compliance with this section.

(a) In conducting the standardized regulatory impact assessment required by Section 11346.3(c) of the code, an agency shall either:

(1) Use a professionally accepted economic impact model (such as the Regional Economic Models, Inc. (REMI), Dynamic Revenue Analysis Model (DRAM), Energy Dynamic Revenue Analysis Model (EDRAM), or IMPLAN) that will permit it to make all of the assessments required by Section 11346.3(c) of the code; or

(2) Use an equivalent economic assessment process that yields quantifiable results permitting it to make the assessments required by Section 11346.3(c) of the code.

(b) An agency that utilizes an economic impact model described in subdivision (a)(1) shall specify in the SRIA the model and version used, any changes the agency made to the assumptions built into that model, and the rationale and basis for those changes.

(c) An agency that utilizes a process described in subdivision (a)(2) shall explain in the SRIA how the process used is equivalent to the type of economic impact model described in subdivision (a)(1) and shall describe the applied analytical methods and data sources used and present a synopsis of the calculations involved.

(d) For purposes of subdivision (a), the department's most current public state economic and demographic projections shall be used unless the department approves the agency's written request to use a specific alternative projection. Such approval shall be made on a case-by-case basis.

(e) Costs and benefits shall be separately identified for different groups of agencies, businesses and individuals if the impact of the regulation will differ significantly between identifiable groups. Where impacts relative to business size are significantly different for small businesses (as defined in Section 11342.610 of the code), those impacts shall be separately analyzed and reported.

(f) The agency shall compare its proposed regulatory alternatives with a baseline that reflects the anticipated behavior of individuals and businesses in the absence of the proposed major regulations and shall identify the baseline it used.

(g) An analysis of estimated changes in behavior by businesses and/or individuals in response to the proposed regulation shall be conducted and, if feasible, an estimate made of the extent to which costs or benefits are retained within the

business or passed on to others, including customers, employees, suppliers and owners.

(h) (1) Pursuant to Section 11346.36(a) of the code, the agency shall include an assessment of the value of the monetary and nonmonetary benefits of the proposed major regulation. These benefits may include, but are not limited to, the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, the increase in the openness and transparency of business and government, and other nonmonetary benefits consistent with the statutory policy or other provisions of law. This assessment shall describe the quantities and, whenever possible, the value of those benefits projected to result from the proposed major regulation.

(2) For each assessment, the agency shall describe the applied analytical methods and data sources used and present a synopsis of its calculations.

(A) Where a market exists that can directly reveal the quantity or monetary value of a projected benefit of the proposed major regulation, the agency's assessment shall rely on current and (if applicable) projected market transaction data.

(B) Where a market does not exist that can directly reveal the quantity or monetary value of a projected benefit of the proposed major regulation, an agency shall use one of the following approaches:

(i) The agency shall use an indirect approach (e.g., use values derived from related markets) in cases where the value of the benefits can be inferred from actual choices made by individuals in related markets. The assessment shall rely on current and (if applicable) projected market transaction data.

(ii) Where an indirect approach is not feasible, the agency shall use a direct approach (e.g. use values from surveys), estimating the value of the benefits based on hypothetical choices made by individuals responding to a survey.

(iii) Where neither direct nor indirect approaches are feasible, the agency shall estimate the value of the benefits based upon an existing study of another regulatory policy with similar subject or physical characteristics. This estimate shall describe how the agency took into account the differences in the characteristics (such as time span, specific benefits to valued, population, and other socio-economic factors) between the study and the proposed major regulations.

(iv) If the approaches described above are not feasible or applicable, the agency shall not use an alternative approach unless the department approves the agency's written request to use a specific alternative method. Such approval shall be made on a case-by-case basis.

(i) The agency shall also include in the SRIA an estimate of the costs to the agency of enforcing the regulatory proposal and the underlying data substantiating that estimate, regardless of whether the agency intends to absorb those costs.

(j) The agency shall include as part of its SRIA a report on the regulatory alternatives that it reviewed and rejected, together with the reasons for such rejection.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548 and 11346.36, Government Code.